provisional ballots would not be counted if the voter applied for an absentee ballot. 2004 WL 2360485, at *1. The plaintiffs also challenged the provisions under HAVA. The identification provision allowed nearly all forms of acceptable identification under HAVA. *Id.* at *6.

The challenge to the identification requirement failed under both challenges. The Court interpreted HAVA as not intended to preempt state laws and as permitting states to be more strict than, but not inconsistent with, HAVA. *Id.* at *10. The Court felt that the purpose of both laws was the same, to reduce voter fraud, and thus, both laws could coexist. As to the Constitutional claim, both equal protection and substantive due process, the Court felt that preventing voter fraud, which is impossible to remedy once a vote is cast, is a compelling interest, and the Court also felt that a voter identification requirement for all voters, with many types of acceptable identification, was only marginally more intrusive than HAVA. *Id.* at 12. The Court also found no improper discrimination between voters. *Id.* Thus, the provision was upheld.

McKay v. Thompson, 226 F.3d 752 (6th Cir. 2000).

The Sixth Circuit ruled that the Privacy Act, the National Voter Registration Act, Substantive Due Process, the Privileges and Immunities Clauses (Fourteenth Amendment & Article IV), and the First Amendment right to free exercise do not prohibit requiring disclosure of social security numbers as a precondition to voter registration.

The Privacy Act, Section 7, mandates that it is unlawful for a government to deny a right or privilege because of a citizen's refusal to disclose his social security number, unless the disclosure was required for a system established prior to 1975. 226 F.3d at 755 (citing Privacy Act of 1974, Pub. L. No. 93-579 (1974)). Since Tennessee required social security numbers for voter registration since 1972, his challenge was rejected. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. *Id.* at 755-56 (citing 42 U.S.C. §1973gg-3(c)(2)(B)). The Court rejected this challenge because the NVRA does not specifically forbid the use of social security numbers, and the Privacy Act, a more specific statute, grandfathered their use if prior to 1975. 226 F.3d at 756.

Finally, the plaintiff's constitutional claims were all rejected. His substantive due process claim was rejected because internal receipt and use of social security numbers does not burden the fundamental right to vote. *Id.* The free exercise challenge, based on the Bible's supposed prohibition of universal identifiers, was rejected because the law was generally applicable and not directed at particular religious practices. *Id.* The Privileges and Immunities Clause claim was rejected because the Clause does not apply to citizens of the state. *Id.* The Fourteenth Amendment Privileges and Immunities claim, based on the right to vote as unique to U.S. citizenship, was rejected because the Clause provides no protection where Congress has authorized the infringement. *Id.*

Kemp v. Tucker, 396 F. Supp. 737 (M.D. Pa. 1975), aff'd, 423 U.S. 803.

A statute was upheld, which required name, occupation, address, sex, race, height, hair color, eye color, and date of birth to be recorded on the voter registration card and allowed registration officials to reject an incomplete application. 396 F. Supp. at 738. Claims were alleged under the Fourteenth Amendment's Equal Protection Clause, the Fifteenth Amendment, and the Voting Rights Act.

As to the Fourteenth and Fifteenth Amendment claims, the Court reasoned that preventing voter fraud is a compelling goal, and identification provisions are "an essential means of achieving the goal." *Id.* at 739. The Court also rejected the equal protection claim because the statutes did not create a distinction at all. *Id.* at 740 n.3. Since race is just one of

several characteristics required, the Court found that it was intended for preventing voter fraud, not some other motive. *Id.* at 740. As to the VRA, the Court rejected the claim that it added race as a qualification for voting as frivolous. *Id.* As to a Fifteenth Amendment claim that it abridged the right to vote on account of race, the Court also made a distinction between rejecting a voter application because of race and rejecting an application because of failure to answer all relevant questions to assist in preventing voter fraud. *Id.* The statute was upheld.

Perez v. Rhiddlehoover, 186 So. 2d 686 (La. Ct. App. 1966).

A voter registration requirement was challenged and upheld. The statute stated that date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration. 186 So.2d at 690. This information was required for identification of voters, especially when voters had the same name, to prevent duplicate voting. It was challenged under the Voting Rights Act of 1965 Section 4(a) which prohibits denying the right to vote for failure to comply with a "test or device." The Court felt that this requirement was not a test or device for discrimination because it applied equally. *Id.* at 691. The Court also determined that it was not in conflict with the Fifteenth Amendment either. *Id.*

Friendly House, et al. v. Janet Napolitano et al., CV 04-649 TUC DCB

On November 30, 2004, the Mexican American Legal Defense and Educational Fund (MALDEF) filed suit seeking to halt the implementation of Proposition 200. Proposition 200 created a number of legal requirements to ensure that public benefits are not available to illegal immigrants. In particular, Proposition 200 requires that a person attempting to register to vote provide one of six specific forms of proof of United States citizenship. Compl. 12-13. Also, any person attempting to vote must present either one form of photo identification or two forms of non-photo identification. *Id.* at 13.

The lawsuit alleges two violations that directly relate to the voting identification restrictions. First, the lawsuit alleges a violation of the Twenty-Fourth and Fourteenth amendments in that a voter must pay a poll tax by spending money to purchase the required identification. *Id.* at 20. Second, the lawsuit alleges violation of the Voting Rights Act. *Id.* at 21. The lawsuit was recently dismissed by the 9th Circuit Court of Appeals for a lack of standing. The Circuit Court found that there was no injury-in-fact, meaning that once an injury occurs the suit will likely be refiled. Additionally, it should be noted that the voter identification issue is only a part of the lawsuit, and much of the focus has been on other aspects of Proposition 200.

Current Litigation Concerning Voter ID Issues²⁷

Litigation is filled with uncertainty. Litigation stemming from newly passed voter identification requirements will continue into the foreseeable future. Lawsuits are currently pending over voter identification requirements in Georgia and Indiana. Other states, such as Ohio, are considering new identification requirements that could lead to further litigation. The Georgia lawsuit has already succeeded in getting a preliminary injunction against the law in question, which will likely galvanize interested parties in other states to pursue similar litigation. Of course, if the injunction is eventually overturned at the appellate level it could have a similar chilling affect on future litigation.

This summary major litigation pending in Georgia and Indiana includes a brief assessment of the likelihood of success:

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²⁷ As of January 2, 2006

Georgia (Common Cause/Georgia v. Billups):

On September 19, 2005, Common Cause of Georgia, in conjunction with several other non-profit organizations, filed suit in Federal District Court against the Georgia Secretary of State and other election officials, challenging the constitutionality of Georgia's new voter identification requirements. The new law requires all voters attempting to cast a ballot in person to present a valid form of photographic identification. O.C.G.A. § 21-2-417. A voter that is unable to provide proper identification is given a provisional ballot. However, that provisional ballot will be counted only if the voter is able to subsequently present valid identification within two days of the election. *Id.*

The lawsuit alleges five separate violations of state and federal law. First, the complaint alleges that the identification requirements infringe on the right to vote guaranteed in the Georgia constitution (Compl. 32)²⁸. In addition, the Plaintiffs claim violations of the Federal Civil Rights Act and Voting Rights Act. (Compl. 36,38). Finally, the lawsuit alleges violations of the Fourteenth and Twenty-Fourth amendments to the U.S. Constitution. The complaint claims that the ID requirements constitute an "undue burden" on the right to vote, in violation of the Equal Protection Clause of the Fourteenth Amendment (Compl. 34). The ID requirement does not apply to most absentee voters, and thus the requirement is also over-broad and not narrowly tailored to address the stated purpose of preventing voter fraud (Compl. 34). The complaint further alleges that the cost of obtaining a photo ID constitutes a poll tax, in violation of the Twenty-Fourth Amendment, and that the cost is also a violation of the Fourteenth Amendment because it applies to voters who choose to vote in person, and not to those who vote absentee (Compl. 34,35).

On October 18, 2005, the District Court granted the Plaintiff's motion for a preliminary injunction, enjoining the application of the new identification requirements. In granting the injunction, the court held that both federal constitutional claims had a substantial likelihood of succeeding on the merits at trial (Prelim. Inj. 96, 104). The court also held that, while the two federal statutory claims were plausible, they both lacked sufficient evidence at the time to have a substantial likelihood of success. (Prelim. Inj. 109,111,116). Finally, the court held that the Georgia constitutional claim would be barred by the Eleventh Amendment to the U.S. Constitution. (Prelim. Inj. 77).

The Defendants appealed the motion for preliminary injunction to the Eleventh Circuit, and oral argument is scheduled for March 1, 2006. In addition, some news reports have claimed that the Georgia legislature is considering re-visiting the ID requirements in light of the on-going litigation.²⁹ As for the merits, in granting the preliminary injunction the District Court has already signaled its belief that the federal constitutional claims are likely meritorious. The Eleventh Circuit may have a different view, but for now the case looks to have a reasonable chance of success.

Indiana (Indiana Democratic Party v. Rokita and Crawford v. Marion County Election Board):

The Indiana lawsuit is similar to its Georgia counterpart in content, though not in status. In Indiana separate lawsuits, now joined, were filed by the state Democratic Party and the

²⁸ Litigation documents are available at the Election Law @ Moritz website. http://moritzlaw.osu.edu/electionlaw/litigation/index.php

²⁹ GA Legislature May Revisit Voter ID Law, State Net Capitol Journal, Dec. 19, 2005.

Indiana Civil Liberties Union (ICLU). The Democratic Party's lawsuit is directed against the Indiana Secretary of State, while the ICLU's lawsuit involves the Marion County Board of Elections and the State of Indiana. Like Georgia, Indiana law also requires citizens voting in person to present some form of official photo identification. IC § 3-11-8-25.1. Voters unable to present identification are given a provisional ballot, which is counted if they are able to provide the required identification by Noon on the second Monday following the election. IC § 3-11.7-5-1. Unlike Georgia, Indiana provides state issued identification at no charge. However, there are costs involved in the process, including transportation to the Bureau of Motor Vehicles, and payment for documents such as birth certificates, which are needed to obtain the ID. (Second Am. Compl. 6).

The Democratic Party's complaint raises Fourteenth Amendment claims similar to those in the Georgia lawsuit, including concerns about substantially burdening the right to vote, the enactment of a de-facto poll tax from the costs indirectly associated with obtaining ID, and the lack of applicability to voters who cast an absentee ballot. (Second Am. Compl. 6-9). In addition, the complaint alleges that the substantial burden placed on the right to vote violates the First Amendment protection of expressive or symbolic speech, as well as the freedom of association as applied to Democratic primary elections. (Second Am. Compl. 9-10). Finally, the complaint alleges violations of the Voting Rights Act, National Voter Registration Act, and the Help America Vote Act (Second Am. Compl. 10-11). The ICLU's complaint alleges many of the same violations, but also includes claims of a violation of Indiana's constitutional guarantee of a free and equal election system. (Compl. 15)

The case is currently in the pre-trial phase, with both sides awaiting decisions on their respective motions for summary judgment.³⁰ The likelihood of success is bolstered by the fact that the Fourteenth amendment constitutional claims have already been found persuasive by at least one other Federal District Court. However, the Indiana law is notably different than its Georgia counterpart in that it provides free identification. While the plaintiffs make a solid argument that related costs still amount to a poll-tax, it is possible that the court could distinguish on this matter.

Unlike the Georgia case, the Indiana lawsuit also claims a violation of the Help America Vote Act. Although the claim is not completely clear, it seems as though the Plaintiffs are arguing that the Indiana statute requires more stringent identification than what is required by HAVA. 42 U.S.C. § 15483(b)(1)-(2). While this is true, it is unclear how this violates the statute. HAVA merely states that certain voters unable to produce HAVA required identification be given a provisional ballot. *Id.* Indiana law meets this requirement. IC § 3-11-8-25.1. Although Indiana law requires more stringent identification for counting the provisional ballot, HAVA leaves theses decisions to state law. 42 U.S.C. § 15482(a).

³⁰ According to an AP article, the Plaintiffs filed some type of brief on December 21—however it is not yet up on the Moritz website and I am unsure how to access it otherwise.

Appendix C

"Analysis of Effects of Voter Identification Requirements on Turnout "

Tim Vercellotti Assistant Research Professor The Eagleton Institute of Politics

PROVIDED EARLIER

APPENDIX D

Annotated Bibliography on Voter Identification Issues

Law Journals

- Angelo J. Genova & Rebecca Moll Freed, The Right to Vote and Be Counted: A Liberty at Risk, 233 N.J. Law 44, Apr. 2005.
 - Discusses HAVA a lot
- George W. Grayson, Registering and Identifying Voters: What the United States Can Learn From Mexico, 3 ELECTION L.J. 513 (2004).
 - Benefits of US adopting Mexican system of identifying voters and voter registration
- Robert A. Pastor, Improving the U.S. Electoral System: Lessons from Canada and Mexico, 3 ELECTION L.J. 584 (2004).
 - Discusses HAVA, problems of 2000 election, discusses registration & identification
- Brian Kim, Recent Development: Help America Vote Act, 40 HARV. J. ON LEGIS. 579 (Summer 2003).
 - o Discussion of HAVA requirements and voter ID, problems in 2000
- Robert L. McCurley, Legislative Wrap-Up: Election Law Changes, 64 ALA. LAW. 364, Nov. 2003.
 - o Discusses changes in AL to their election law in 2003, including adding voter ID
 - HAVA discussed
- Clifford B. Levine, Esq. & David J. Montgomery, Esq., Post-Election Litigation in Pennsylvania, 41 Duq. L. Rev. 153 (Fall, 2002).
 - o Discusses challenging elections based on voter fraud & illegal votes
- Rebecca Barrett, Election, 18 GA. St. U. L. Rev. 114 (Fall 2001).
 - Discusses a GA law in 2001 removing hunting & fishing licenses from list of acceptable ID and a failed amendment to limit acceptable ID to photo ID only
- Robert A. Junell, Curtis L. Seidlits, Jr. & Glen G. Shuffler, Consideration of Illegal Votes in Legislative Election Contests, 28 Tex. Tech L. Rev. 1095 (1997).
 - General discussion of ways voters are verified, what happens when voters are challenged as illegal voters
- John Victor Berry, Take the Money and Run: Lame-Ducks "Quack" and Pass Voter Identification Provisions, 74 U. DET. MERCY L. REV. 291 (Winter 1997).
 - o discusses a photo ID law passed in Michigan in 1997 (later declared violated EPC of 14th amendment)
 - o arguments against photo ID
- Deborah S. James, Note, Voter Registration: A Restriction on the Fundamental Right to Vote, 96 YALE L.J. 1615 (1987).
 - Discusses voter registration as a way to combat fraud & several different ways to do it

Historical articles:

- Gabrielle B. Ruda, Note, *Picture Perfect: A Critical Analysis of the Debate on the 2002 Help America Vote Act*, 31 FORDHAM URB. L.J. 235 (November 2003).
 - Lot of analysis on HAVA and voter ID
 - o Little bit of historical
 - o Arguments for and against certain types of voter ID laws

- Kimberly C. Delk, What Will it Take to Produce Greater American Voter Participation?
 Does Anyone Really Know?, 2 Loy. J. Pub. Int. L. 133 (Spring 2001).
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 - o Future: I-voting & e-registration improvements in voter ID which would result

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- Jeanne S. Zaino & Jeffrey T. Zaino, *The Changing Landscape of Election Disputes*, 59 DISP. RESOL. J. 11 (Aug. Oct. 2004).
 - Discusses HAVA & implementation
- Symposium, Disability Law, Equality, and Difference: American Disability Law and the Civil Rights Model, Alabama Section, 55 ALA. L. REV. 1167 (Summer 2004).
 - Discusses an AL law expanding exemptions to ID requirement if 2 poll workers identify them
- Bryan Mercurio, Democracy in Decline: Can Internet Voting Save the Electoral Process, 22 J. MARSHALL J. COMPUTER & INFO. L. 409 (Winter 2004).
 - Internet voting
- Kristen E. Larson, Note, Cast Your Ballot.com: Fulfill Your Civic Duty over the Internet,
 27 WM. MITCHELL L. REV. 1797 (2001).
 - Voter ID and Internet voting
 - Costs & Benefits of Internet voting
 - o States using or examining Internet voting
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 - o Discusses illegal ballots, fraudulent registration
- Katharine Hickel Barondeau & Terry M. Jarrett, The Florida Election Debacle: Can it Happen in Missouri?, 57 J. Mo. B. 294, Nov./Dec. 2001.
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 - Voter fraud arguments against NVRA
- James A. Gardner, Consent, Legitimacy and Elections: Implementing Popular Sovereignty Under the Lockean Constitution, 52 U. PITT. L. REV. 189 (Fall 1990).
 - History of voting and requirements
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Appendix E

State Statutes and Regulations Affecting Voter Identification Compiled by The Moritz College of Law, The Ohio State University Available in electronic form Karen Lynn-Dyson/EAC/GOV 06/28/2006 11:56 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV

CC

bcc

Subject Fw: Revised Voter ID Analysis

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue , NW Suite 1100 Washington, DC 20005 tel:202-566-3123

---- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:54 AM -----





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Subject Revised Voter ID Analysis

Karen,

Attached is Tim Vercellotti's Voter ID analysis revised to use Citizen Voting Age population as the base for turnout calculations and to take account of comments or issues raised by the EAC and our Peer Review Group. This draft is for distribution to the reviewers who will meet by teleconference on May 11, at, we understand, 11:30 a.m.

You are receiving this at the same time that it is being distributed to the Eagleton-Moritz team so that the new reviewers will have a week to prepare for our conversation on the 11th. Early next week you will receive a revised summary paper on Voter ID that incorporates the new data and findings in Tim's revised analysis. That too will be for distribution to the new reviewers.

Tom O'Neill

VoterIDAnalysis VercRev0504.doc

Analysis of Effects of Voter Identification Requirements on Turnout Tim Vercellotti Eagleton Institute of Politics Rutgers University May 4, 2006

Introduction

A key area of disagreement in the policy debate over voter identification requirements concerns whether such requirements dampen voter turnout. Opponents of voter identification laws argue that they constitute an institutional barrier to voting, particularly among the poor, African-Americans, Hispanics, the elderly and people with disabilities (Baxter and Galloway 2005, Electionline.org 2002, Jacobs 2005, Young 2006). This argument holds that voter identification requirements create an extra demand on voters, and thus may discourage some of them from participating in elections. Further, critics of voter identification requirements contend that the effect is greater for some specific types of requirements. For example, critics argue that requiring voters to produce government-issued photo identification on Election Day is more demanding than, say, requiring that they state their names at the polling place. Supporters of voter identification requirements, on the other hand, argue that the requirements are necessary to combat voter fraud, safeguard the integrity of the electoral process, and engender faith in the electoral process among citizens (Young 2006).

This report examines the potential variation in turnout rates based on the type of voter identification requirement in place in each state on Election Day 2004. It draws on two sets of data – aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

Types of voter identification requirements

Based on research performed for this study by the Moritz College of Law, states had one of five types of requirements in place on Election Day 2004. Upon arrival at polling places, voters had to: state their names (nine states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (eight states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states). It was then possible to code the states according to these requirements, and test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

¹ Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). For the purposes of this analysis I treated the array of minimum identification requirements also in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

Estimating turnout among citizens in the voting-age population

This report examines turnout among U.S. citizens of voting age in both the aggregateand the individual-level data. Determining citizenship status in the individual-level data simply involved restricting the analyses to individuals who identified themselves as citizens in the November 2004 Current Population Survey. (Those who said they were not citizens did not have the opportunity to answer the supplemental voting questions contained in the Current Population Survey.)

In the aggregate data, determining the percentage of the voting-age population that has U.S. citizenship posed a methodological challenge. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue I estimated the 2004 citizen voting-age population for each county using a method reported in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission (U.S. Election Assistance Commission, 2005). I calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. In other words, I assumed that the percentage of the voting-age population who were citizens in 2000.²

² McDonald and Popkin (2001) recommend an even more stringent approach to voter turnout calculations. They point out that voting-age population estimates include adults who are ineligible to vote (such as convicted felons), and the estimates overlook eligible citizens living overseas. While estimates of the voting-eligible population are available at the state level, I was unable to find such estimates for individual counties, which provide the unit of analysis for the aggregate data analyzed here.

Analysis of aggregate data

If one treats maximum voter identification requirements as an ordinal variable, with photo identification as the most demanding requirement, one finds some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with maximum voter identification requirements (r = -.30, p < .0001). In considering the array of minimum requirements, with affidavit as the most demanding requirement, voter identification also is negatively correlated with turnout (r = -.20, p < .0001). Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

[Table 1 here]

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Differences in voter turnout at the state level in 2004 varied based on voter identification requirements. Taking into account the maximum requirements, an average of 64.6 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their names, compared to 60.1 percent in states that required an affidavit from voters.

Voter identification requirements alone, however, do not determine voter turnout. Multivariate models that take into account other predictors of turnout can paint a more complete picture of the relationship between voter identification requirements and turnout. I estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county. I coded the voter identification requirements on a scale of one to five, with one representing the least demanding form of identification and five representing the most demanding form of identification. To capture electoral context I included whether the county was in a presidential battleground state (any state in which the margin of victory for the winning candidate was five percent or less), and whether the county was in a state with a competitive race for governor and/or the U.S. Senate (also using the threshold of a margin of victory of five percent or less). Drawing from U.S. Census projections for 2003, I included the percentage of the voting-age population in each county that was Hispanic or African-American to control for ethnicity and race. I controlled for age using the 2003 Census projection for the percentage of county residents age 65 and older, and I controlled for socioeconomic status by including the percentage of individuals who fell below the poverty line in each county in the 2000 Census.

I estimated a series of random intercept models to account for the likelihood that data from counties were correlated within each state (for further explanation of random intercept and other multilevel models, see Bryk and Raudenbush 1992, Luke 2004, Singer 1998).³ The

³ The data analyses provided evidence that there was, indeed, a clustering of data within each state. The intraclass correlation, bounded by 0 and 1, measures the variation between the states. A random intercept model using only the

dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the estimated citizen voting-age population that voted in the 2004 election.

[Table 2 here]

Turning first to an analysis using the maximum identification requirements, those requirements had a small and negative effect on turnout in 2004 controlling for electoral context and demographic factors. Both contextual factors (whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate) increased voter turnout. As the percentage of senior citizens in the county increased, so did turnout. The percentage of African-Americans in the county exerted a positive effect on voter turnout, and the percentage of individuals living below the poverty line had a negative effect. The effect of the percentage of Hispanic adults in the county on turnout fell just short of statistical significance (p = .05).

I then sought to test the hypothesis that voter identification requirements dampen turnout among minorities and the poor, a claim voiced by some critics of the requirements. To test this idea I incorporated a series of interactions between the maximum voter identification requirements and the percentage of African-Americans, Hispanics, and poor individuals in the counties. The interaction involving African-Americans was not significant, but those involving Hispanics and poor individuals were significant. In addition, adding the interactions to the model resulted in the percentage of Hispanics in the population having a direct and negative effect on turnout. The interactions suggest that voter identification requirements have a greater effect for Hispanics and those living below the poverty line. A chi-square test of the difference in the deviance for each model (represented by -2 log likelihood in Table 2), shows that the model with interactions provides a better fit to the data (p < 0.005).

I also estimated the effects of the minimum voter identification requirements holding constant the effects of electoral context and the demographic variables.

[Table 3 here]

The effects of the minimum requirements fell short of statistical significance (p = 0.08). The battleground state variable continued to exert a positive influence on turnout, while the presence of a competitive race for governor and/or U.S. Senate had no statistically significant effect. As in the maximum identification requirement model, as the percentage of the population that is poor increased, turnout declined. As the percentage of elderly increased, so did turnout. The proportion of African-Americans in the population had a positive effect on turnout, while the percentage of Hispanics did not affect turnout.

intercept as a predictor generated an intraclass correlation of .43, indicating considerable variation between the states.

⁴ The interactions are labeled in Tables 2 and 3 as VID*African-American, VID*Hispanic, and VID*Poverty. To calculate the effects of voter identification requirements for a specific group, one must add the estimates for voter identification, the group, and the interaction. Doing so for Hispanic adults results in an estimate of -0.13 [-0.03 (voter id) - 0.13 (Hispanic) + 0.03 (voter id X Hispanic)].

Adding interactive effects to the model resulted in a statistically significant and negative effect of minimum voter identification requirements on turnout. The percentage of Hispanic adults in the county had a significant and negative effect on turnout, and the percentage of individuals below the poverty line continued to have a negative effect. Interactions between the percentages of Hispanics and those below the poverty line and minimum voter identification requirements also were significant. The percentage of African-Americans in the county and the interaction between African-Americans and voter identification requirements were not significant. A chi-square test for the difference in fit between the two models showed that the model with interactions provides a better fit to the data (p < .025).

Analysis of the aggregate data at the county level generates some support for the hypothesis that as the demands of voter identification requirements increase, turnout declines. This is particularly so for counties with concentrations of Hispanic residents or individuals who live below the poverty line. But aggregate data cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991). Married individuals also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993). To fully explore the effects of voter identification requirements on turnout, it is important to examine individual-level data as well.

Individual-level analysis

Individual-level turnout data exists in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. The Census Bureau conducts the CPS monthly to measure unemployment and other workforce data, but the bureau adds a battery of voter participation questions to the November survey in even-numbered years to coincide with either a presidential or midterm Congressional election.

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents. The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. I omitted those who said they were not registered to vote. I also excluded those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. In addition, I eliminated from the sample respondents who said they were not U.S.

⁵ A reviewer for an earlier version of this paper recommended adding an education variable to the aggregate model. One version of the aggregate model not reported here included the percentage of adults in the county who had at least a college degree. The measure was highly collinear with the percentage of residents living below the poverty line, necessitating removal of the college degree variable from the model.

⁶ It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).

citizens because the questionnaire design skipped those individuals past the voter registration and turnout questions in the survey.

The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election. As in the analysis of aggregate data, I coded voter identification requirements for each respondent's state of residence on a scale of one to five, with one representing the least demanding requirement (stating one's name) and five representing the most demanding requirement (photo identification or affidavit).

In addition to the voter identification requirements, the models include two other statelevel factors that might have influenced turnout in 2004: whether the state was considered a battleground state in the presidential election, and whether there was a gubernatorial and/or U.S. Senate race in the state (see Alvarez and Ansolabehere 2002, Alvarez et al. 2004, and Kenny et al. 1993 for similar approaches). As in the aggregate data analysis, the threshold that determined whether the state was a battleground state or had a competitive statewide race was a margin of victory of five percent or less. At the individual level, I controlled for gender, age in years, education, household income, and dummy variables representing whether a voter was Black/non-Hispanic, Hispanic, or another non-white race (with white/non-Hispanic voters as the omitted category for reference purposes).8 Drawing on previous research on voting behavior, I also controlled for whether an individual was employed, or at least a member of the workforce (as opposed to being a full-time student, a homemaker, or retired). Both employment and workforce membership have been shown to be positive predictors of turnout (see Mitchell and Wlezien 1995). Marital status, whether one is a native-born citizen and residential mobility also have emerged as significant predictors of turnout (Alvarez and Ansolabehere 2002, Alvarez et al. 2004, Kenney et al. 1993, Wolfinger and Rosenstone 1980). I included in the model variables for whether a respondent was married (coded 1 if yes, 0 otherwise), and whether one was a nativeborn citizen (coded 1 if yes, 0 otherwise). I measured residential mobility by coding for whether the respondent had moved to a new address in the six months prior to the interview (coded 1 if yes, 0 otherwise).

Results

The dependent variable is whether a respondent said he or she voted in the November 2004 election (coded 1 for yes, 0 for no). I estimated models using probit analysis, which

⁸ Asian-Americans are included in the "other non-white races" category. In response to a request from officials at the U.S. Election Assistance Commission who had read an earlier version of this paper and were curious about the experiences of Asian-Americans, I ran models using Asian-Americans as a separate category in addition to the models presented here. Voter identification requirements did not have a statistically significant effect on whether Asian-American voters said they turned out in the 2004 election.



⁷ The U.S. Census Bureau reported, based on the November 2004 CPS, that 89 percent of those who identified themselves as registered voters said they voted in 2004 (U.S. Census Bureau 2005). Previous research has shown that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be up to 10 percentage points higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

calculates the effects of independent variables on the probability that an event occurred – in this case whether a respondent said he or she voted. I estimated the models using robust standard errors to control for correlated error terms for observations from within the same state.

[Table 4 here]

The two models in Table 4 use either the maximum or minimum voter identification requirements in each state. The two models generate virtually identical results. Voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, African-American voters were more likely than white voters to say they had cast a ballot, while those of other non-white races were less likely than white voters to say they had turned out. Hispanic voters were not statistically different from white voters in terms of reported turnout. Consistent with previous research, age, education, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Those who had moved within six months before the interview were less likely to say they had voted.

While the probit models provide statistical support for the influence of voter identification requirements and other variables on turnout, probit coefficients do not lend themselves to intuitive interpretation. Another common approach in studies of election requirements is to examine how the predicted probability of voter turnout would vary as election requirements vary. I used the probit coefficients to calculate the predicted probability of voting at each level of voter identification requirements while holding all other independent variables in the models at their means. I calculated the probabilities taking into account both maximum and minimum requirements, with photo identification serving as the most demanding of the maximum requirements and affidavits as the most demanding minimum requirement.

[Table 5 here]

Allowing the voter identification requirement to vary while holding constant all other variables in the model showed that the predicted probability of turnout ranged from 0.912 for stating one's name to 0.887 for photo identification under the maximum requirements. In other words, the probability of voting dropped with each level of voter identification requirement, with a total drop of .025, or 2.5 percent, across the five types of identification. When taking into account the minimum requirement for identification, the probability showed a similar decline, with a slightly larger total drop of 3.3 percent.

Among the key variables of interest in the debate over voter identification requirements are race, age, income, and education. Given the large sample size (54,973 registered voters), it

⁹ In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of <u>all</u> citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.

was possible to break the sample into sub-samples along those demographic lines to explore variation in predicted probability by group. I disaggregated the sample by the variable of interest, omitting that variable while I re-ran the probit model with the remaining predictors of voter turnout, including the voter identification requirements.¹¹ If the analysis showed that the voter identification requirements had a statistically significant effect on turnout, I used the probit coefficients from the model to calculate the predicted probability of voting for each group across the five requirements while holding the other variables in the model constant.

[Table 6 here]

Both the maximum and minimum identification requirements had negative and statistically significant effects for White/Non-Hispanic voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.2 percent respectively in the predicted probability of voting. The identification requirements had no effect on the probability of Black/Non-Hispanics voting, but the minimum identification requirements had a comparatively sizable effect on voter turnout among Hispanics. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name was the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent.

The effects of voter identification requirements also varied by age, with the greatest variation occurring among voters ages 18 to 24.

[Table 7 here]

Voters in that age group had a predicted probability of 83.9 percent when the maximum requirement was stating one's name, and the probability dropped 8.9 percentage points if voters would have to provide photo identification. The range was from 83.1 percent to 75.4 percent under the minimum requirements. The gap in probability narrowed in older age groups (4.8 percent for the maximum requirements and 5.8 percent for the minimum requirements for those ages 25 to 44; 1.8 percent for the minimum requirements for those ages 45 to 64, and 2.4 percent for the minimum requirements for those ages 65 and older).

Breaking down the 18- to 24-year-old age group by race shed additional light on the effects of voter identification requirements on specific groups.

[Table 8 here]

The gap in predicted probability that White/Non-Hispanic voters in the 18- to 24-year-old category would turn out was 9.2 percent when the identification requirements varied from stating one's name to providing photo identification. The gap was 7.8 percent when taking into account the minimum requirements. The effects of maximum voter identification requirements also were statistically significant for African-Americans in the 18- to 24-year-old age group, with a gap in

¹¹ See Nagler 1991 for a similar approach in analyzing the effects of registration closing dates broken down by education levels.

the predicted probability of voting of 10.6 percent. Maximum and minimum voter identification requirements were not a significant predictor of voting among Hispanics ages 18 to 24.

Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.¹²

[Table 9 here]

While the maximum set of requirements did not have a statistically significant effect for voters living below the poverty line, the minimum set of requirements had a significant and negative effect. The probability of voting was .784 for poor voters if they would have to identify themselves by giving their name, and the probability declined to .731 if they would have to provide an affidavit attesting to their identity. Both the maximum and minimum sets of requirements had a significant and negative effect on voters living above the poverty line, but the difference in probability across the effects was narrower (2.3 percent for the maximum requirements and 3.1 percent for the minimum requirements). Given that political discourse about voter identification requirements includes concerns about the effects of the requirements on poor and minority voters, I also ran probit analyses for sub-samples of white and minority voters who fell below the poverty line. The voter identification requirements did not exert statistically significant effects on turnout among poor White/Non-Hispanic and Hispanic voters, but did have a significant effect on Black/Non-Hispanic voters who were below the poverty line. 13 Allowing the maximum voting requirement to vary from the least to the most demanding, the probability that African-American voters below the poverty line said they had voted dropped by 7.5 percent.

The effects of voter identification requirements varied across education levels as well, with those lowest in education demonstrating the widest variation in probabilities as identification requirements ranged from least to most demanding.

[Table 10 here]

Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The difference from the lowest to the highest requirement among the minimum requirements was 7.4 percent. The difference in probabilities ranged from 3.3 percent for the maximum requirements to 4.5 percent for the minimum requirements for voters with a high school diploma. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category – voters with some college education).

¹² I coded respondents as being above or below the U.S. Census Bureau's 2004 poverty line based on respondents' reported annual household income and size of the household.

¹³ The lack of significant effects for poor Hispanic voters is in contrast to the results from the aggregate data analysis. The sub-sample of poor Hispanic voters was small (n = 491), which may have contributed to the lack of statistical significance.

Discussion and conclusion

The results presented here provide evidence that as the level of demand associated with voter identification requirements increases, voter turnout declines. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but still statistically significant.

The effects of voter identification requirements were more pronounced for specific subgroups. Hispanic voters and the poor appeared to be less likely to vote as the level of required identification became more demanding, according to both the aggregate and the individual-level data. In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements. Survey respondents living in poor households were 5.3 percent less likely to vote as the requirements varied from stating one's name to attesting to one's identity in an affidavit. African-American voters from households below the poverty line were 7.5 percent less likely to vote as the maximum requirements varied from stating one's name to providing photo identification.

Effects of voter requirements also varied with education. Registered voters who had not graduated from high school were 6.7 percent less likely to say they voted as the maximum requirements ranged from stating one's name to providing photo identification. When considering the minimum requirements, those with less than a high school education were 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name. Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit. Breaking down the age group by race, the effects were significant for young White/Non-Hispanic and Black/Non-Hispanic voters.

The results shed additional light on the effects of voter identification requirements on two groups often projected as being particularly sensitive to such requirements: African-American voters and elderly voters. The effects on African-American voters were pronounced for two specific sub-samples: African-American voters living below the poverty line and those in the 18-to 24-year-old age group. Also, the elderly, while they would be slightly less likely to vote as requirements ranged from least to most demanding, would not necessarily be affected in the dramatic manner predicted by some opposed to photo identification requirements in particular.

In examining the effects of voter identification requirements on turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements?¹⁴ Or, do the requirements result in some voters

¹⁴ The individual-level data offer some insight here. If advance knowledge of the voter identification requirements were to dampen turnout, it is reasonable to expect that advance knowledge of those requirements also could discourage some individuals from registering to vote. I ran the same probit models using voter registration as the dependent variable (coded 1 if the respondent said he or she was registered, and 0 if the respondent was not

being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

registered). Neither the maximum nor minimum array of voter identification requirements had a statistically significant effect on the probability that a survey respondent was registered to vote.

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Maximum Requirement		Minimum Requirement		
Voter Identification Required in the States	Mean Voter Turnout for States in that Category	Voter Identification Required in the States	Mean Voter Turnout for States in that Category	
State Name	64.6 %	State Name	63.0 %	
Sign Name	61.1 %	Sign Name	60.8 %	
Match Signature	60.9 %	Match Signature	61.7 %	
Provide Non-Photo ID	59.3 %	Provide Non-Photo ID	59.0 %	
Provide Photo ID	58.1 %	Swear Affidavit	60.1 %	
Average Turnout for All States		60.9 %		

Table 2. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements

identification requirements

	Basic M	[odel	Model with Interactions		
Variable	Unstandardized Estimate	Standard Error	Unstandardized Estimate	Standard Error	
Intercept	0.64	0.01	0.69	0.02	
Voter ID requirements	-0.01**	0.003	-0.03**	0.004	
Battleground State	0.04*	0.01	0.04*	0.02	
Competitive Senate/Governor's Race	0.04*	0.02	0.04*	0.02	
% Age 65 and Older	0.48**	0.03	0.50**	0.03	
% African- American	0.05**	0.01	0.06	0.03	
% Hispanic	-0.02	0.01	-0.13**	0.05	
% Below poverty line	-0.01**	0.0002	-0.01**	0.001	
VID * African- American			-0.004	0.01	
VID * Hispanic			0.03*	0.01	
VID * Poverty			0.001**	0.0002	
-2 Log Likelihood	-8638.0		-8651.1		

Coefficients are restricted maximum likelihood estimates. N = 3,111. * p < .05 ** p < .01 (two-tailed tests)

Table 3. Predictors of 2004 turnout at the county level taking into account minimum voter identification requirements **Basic Model Model with Interactions** Variable Unstandardized Standard Unstandardized Standard Error Estimate Error **Estimate** 0.02 Intercept 0.63 0.02 0.66 **Voter ID** -0.009 0.005 -0.02** 0.006 requirements Battleground 0.04* 0.02 0.04* 0.02 State Competitive 0.03 0.02 0.03 0.02 Senate/Governor's Race % Age 65 and 0.48** 0.03 0.48** 0.03 Older % African-0.05** 0.01 0.04 0.03 American % Hispanic -0.12 0.01 -0.13** 0.04 % Below poverty -0.01** 0.0003 -0.01** 0.001 line VID * African-0.01 0.01 American VID * Hispanic 0.03* 0.01 **VID * Poverty** 0.001** 0.0002 -2 Log Likelihood -8630.8 -8620.1

Coefficients are restricted maximum likelihood estimates. N = 3,111. * p < .05 ** p < .01 (two-tailed tests)

Table 4. Probit model of voter turnout.						
	Maximum requ	irements	Minimum requirements			
Variable	Unstandardized Estimate	Standard Error	Unstandardized Estimate	Standard error		
Voter ID	-0.04*	0.01	-0.05**	0.01		
requirements		•				
Hispanic	-0.06	0.05	-0.05	0.05		
Black	0.22**	0.04	0.22**	0.04		
Other race	-0.23**	0.04	-0.23**	0.04		
Age in years	0.01**	0.001	0.01**	0.001		
Education	0.12**	0.005	0.11**	0.005		
Household	0.03**	0.003	0.03**	0.003		
income				·		
Married	0.20**	0.02	0.20**	0.02		
Female	0.09**	0.01	0.09**	0.01		
Battleground state	0.18**	0.04	0.19**	0.04		
Competitive race	0.05	0.05	0.05	0.05		
Employed	0.05	0.04	0.05	0.04		
Member of workforce	-0.04	0.05	-0.04	0.05		
Native-born citizen	0.03	0.04	0.04	0.05		
Moved within past 6 months	-0.27**	0.03	-0.27**	0.03		
Constant	-4.48**	0.20	-4.46**	0.20		
Pseudo-R- Squared	0.09	V.— 3	0.09			

Notes:

N = 54,973 registered voters

 $p \le .05*$ $p \le .01**$ (two-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

	Maximum requirement	Minimum requirement
State name	0.912	0.911
Sign name	0.906	0.903
Match signature	0.900	0.895
Non-photo ID	0.894	0.887
Photo ID	0.887	
Affidavit		0.878
Total difference from lowest to highest	0.025	0.033
N	54,	973

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant.

l	Table 6.	Predicted	probability o	f voter turnout	- White and	Hispanic voters

	White/Non-H	Hispanic voters	
	Maximum requirement	Minimum requirement	Minimum requirement
State name	0.920	0.922	0.870
Sign name	0.915	0.915	0.849
Match signature	0.909	0.907	0.826
Non-photo ID	0.902	0.899	0.800
Photo ID	0.895		
Affidavit		0.890	0.773
Total difference from lowest to highest	0.025	0.032	0.097
N	44,	760	2,860

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for Hispanic voters. Maximum and minimum voter identification requirements were not a significant predictor for African-American voters.

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Table 7.	Predicted	probability	of voter tur	nout – Age groups
----------	-----------	-------------	--------------	-------------------

	18 - 24		25 -	- 44	45 - 64	65 and older
	Maximum requirements	Minimum requirements	Maximum requirements	Minimum requirements	Minimum requirements	Minimum requirements
State name	0.839	0.831	0.831	0.831	0.936	0.916
Sign name	0.819	0.814	0.820	0.817	0.932	0.910
Match signature	0.797	0.795	0.808	0.803	0.927	0.904
Non- photo ID	0.774	0.775	0.796	0.788	0.923	0.898
Photo ID	0.750		0.783			
Affidavit		0.754	ath refer that case	0.773	0.918	0.892
Total difference lowest to highest	0.089	0.077	0.048	0.058	0.018	0.024
N	5,0	65	20,	066	20,758	9,084

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for voters ages 45 to 64 and 65 and older.

	White/Not	Black/Non-Hispani 18 – 24	
	Maximum requirements	Minimum requirements	Maximum requirements
State			
name	0.844	0.836	0.899
Sign			
name	0.823	0.818	0.877
Match			
signature	0.801	0.799	0.852
Non-			
photo ID	0.777	0.779	0.824
Photo ID	0.752		0.793
Affidavit		0.758	
Total difference - lowest to highest	0.092	0.078	0.106
N	3,8	<u> </u> 14	562

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Minimum voter identification requirements were not a significant predictor of voting for Black/Non-Hispanic voters ages 18 to 24. Maximum and minimum voter identification requirements were not a significant predictor of voting for Hispanic voters ages 18 to 24.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

Table 9. Predicted probability of voter turnout - Voters above and below the poverty line					
	All voters above	the poverty line	All voters below the poverty line	Black/Non- Hispanic voters below the poverty line	
	Maximum	Minimum	Minimum	Maximum	
	requirement	requirement	requirement	requirement	
State name	0.920	0.922	0.784	0.833	
Sign name	0.915	0.915	0.772	0.816	
Match signature	0.909	0.907	0.758	0.798	
Non-photo ID	0.903	0.899	0.745	0.778	
Photo ID	0.897			0.758	
Affidavit		0.891	0.731		
Total difference from lowest to highest	0.023	0.031	0.053	0.075	
N	49,	935	5,038	1,204	

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum voter identification requirements were not a significant predictor of voting for white and Hispanic voters who were below the poverty line. Minimum voter identification requirements were not a significant predictor of voting for Black voters below the poverty line.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

Table 10. Predicted probability of voter turnout - By education

State name Sign name	Maximum equirement 0.775	Minimum requirement 0.779	Maximum requirement 0.866	Minimum requirement 0.869	Maximum requirement	Minimum requirement	Maximum requirement	Minimum
State name Sign name	0.775					requirement	raquirament	
Sign name		0.779	0.866	0.869	0.060		requirement	requirement
name	0.759				0.960	0.959	0.977	0.979
		0.762	0.858	0.859	0.956	0.954	0.973	0.973
Match signature	0.743	0.743	0.850	0.848	0.951	0.950	0.968	0.967
Non- photo ID	0.725	0.724	0.842	0.836	0.945	0.945	0.963	0.959
Photo ID	0.708		0.833		0.939		0.957	
Affidavit	em em em em em	0.705		0.824		0.940		0.950
Total difference lowest to highest	0.067	0.074	0.033	0.045	0.021	0.019	0.020	0.029
N	4,9	03	16,	361	11,	017	5,7	739

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Maximum and minimum voter identification requirements were not a significant predictor of voting for those with some college education.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

Karen Lynn-Dyson/EAC/GOV 06/28/2006 11:55 AM To Darrell D. Lee/CONTRACTOR/EAC/GOV

CC

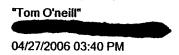
bcc

Subject Fw: Schedule for completion of Prov. Voting and Voter ID research

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue, NW Suite 1100 Washington, DC 20005 tel:202-566-3123

--- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:53 AM ----





To klynndyson@eac.gov

cc john.weingart@rutgers.edu, foley.33@osu.edu,

tokaji.1@osu.edu

Subject RE: Schedule for completion of Prov. Voting and Voter ID research

Thanks, Karen.

Just to be sure that our expectations are clear, I'll summarize the perspective behind the schedule we submitted for the recent extension.

A. Provisional Voting

- We presented our Provisional Voting report to the commissioners several months ago, revised its organization and clarified findings and recommendations in line with the comments of staff and commissioners, and we researched Tom Wilkey's additional question of the effect of the time for review on the evaluation of provisional ballots, which will be included in the final revision.
- 2. The final draft will be completed by May 5.
- 3. Based on discussions with you and the commissioners we look forward to presenting that revised, final report to the Advisory Board on May 24, following whatever additional review the Commission finds appropriate.
- 4. Our discussions with Commissioners and staff anticipated that we would make some presentation of the provisional voting work at the Commission's public meeting in June, a presentation that might include revisions occasioned by the comments of the Advisory Board.

B. Voter ID

- 1. We presented our Voter ID research to the Commissioners in April and are now revising it in line with their comments.
- 2. That revised research paper will be discussed in mid May by reviewers selected by the Commission. That date was set specifically to allow us to prepare a final report that would be ready for review by the Advisory Board on May 24.
- 3. We anticipate that the Commission will want the comments of its Advisory Board on the

Voter ID report before it receives it in June. (Indeed, we were advised that the Advisory Board members would be most interested in the accuracy of observations or findings specific to their individual states.)

4. The appropriate conclusion for our work is a presentation of findings and recommendations for both Provisional Voting and Voter ID, 2 closely related topics, to the Commission at its public meeting in late June, just a week before the termination of our contract under the extended schedule.

I hope you'll share this outline of our expectations with the others at the Commission involved in assuring a successful completion of this research and analysis.

Tom O'Neill

From: klynndyson@eac.gov [mailto:klynndyson@eac.gov]

Sent: Thursday, April 27, 2006 3:08 PM

To: twilkey@eac.gov; jthompsonhodgkins@eac.gov

Cc: foley.33@osu.edu; john.weingart@rutgers.edu;

Subject: RE: Schedule for completion of Prov. Voting and Voter ID research

Tom-

I am certain the provisional voting paper will be presented. The Chairman has asked that the Commissioners have an opportunity to review your corrected and final draft of that document prior to it being presented to the EAC Boards, preferably next week.

Because of the issues surrounding voter identification, I am less certain about the protocol that will be followed. I will ask Tom Wilkey and Julie Hodgkins to offer insights on that matter.

I will also ask them about the protocol to be followed regarding the formal submission and acceptance of both the papers.

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue, NW Suite 1100 Washington, DC 20005 tel:202-566-3123

"Tom O'neill"

04/27/2006 10:26 AM

Toktynndyson@eac.gov ccjohn.weingart@rutgers.edu, tokaji.1@osu.edu, foley.33@osu.edu,

SubjectRE: Schedule for completion of Prov. Voting and Voter ID research

Karen,

Thanks for your quick reply.

Arn I correct in understanding that the presentation to the Board of Advisors on May 24 will include both the Provisional Voting report and the Voter ID report?

If the Commissioners do not consider the reports at its June meeting, when will it take action to receive and record the reports?

Tom O'Neill

----Original Message----

From: klynndyson@eac.gov [mailto:klynndyson@eac.gov]

Sent: Thursday, April 27, 2006 9:50 AM

To: C: john.weingart@rutgers.edu

Subject: Re: Schedule for completion of Prov. Voting and Voter ID research

Tom-

Just had a good conversation with our folks in the legal department, who as you know, are responsible for coordinating our public meetings.

Original plans had slotted Eagleton for the presentation of its final reports on provisional voting and voter id, at a June public meeting. Those plans have been revised to have Eagleton, instead, present its findings to the EAC Board of Advisors and Standards Board on May 24th.

The details of the Board of Advisors and Standards Board meetings are being finalized this week and early next. I will be certain to get your more details, as I learn of them.

Also, I will get you the details on who will provide the EAC peer review of the Voter ID work, as soon as I have them.

Regards-

(back Karen Lynn-Dyson Research Manager

U.S. Election Assistance Commission 1225 New York Avenue , NW Suite 1100 Washington, DC 20005 tel:202-566-3123 Karen Lynn-Dyson/EAC/GOV

06/28/2006 11:54 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV

CC

bcc

Subject Fw: No-Cost Extension Request

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue , NW Suite 1100 Washington, DC 20005 tel:202-566-3123

---- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:52 AM -----

Tamar Nedzar/EAC/GOV

04/21/2006 03:30 PM

To Karen Lynn-Dyson/EAC/GOV@EAC

CC

Subject Fw: No-Cost Extension Request

Ooops. Here's the attachment.

Tamar Nedzar
Law Clerk
U.S. Election Assistance Commission
1225 New York Avenue, NW Suite 1100
Washington, DC 20005
(202) 566-2377
http://www.eac.gov
TNedzar@eac.gov



Rutgers Memo.rtf

--- Forwarded by Tamar Nedzar/EAC/GOV on 04/21/2006 03:28 PM ----

Tamar Nedzar/EAC/GOV

04/21/2006 03:13 PM

To Karen Lynn-Dyson/EAC/GOV

СС

Subject Re: No-Cost Extension Request

Hey Karen,

Once John signs and faxes back the document, we need to get it to Tom with the memo to file (attached) for his signature. I believe that is all we need to do for the no-cost modification.

Thanks.

Tamar Nedzar Law Clerk U.S. Election Assistance Commission 1225 New York Avenue, NW Suite 1100 Washington, DC 20005 (202) 566-2377 http://www.eac.gov TNedzar@eac.gov Karen Lynn-Dyson/EAC/GOV

> Karen Lynn-Dyson/EAC/GOV 04/21/2006 10:10 AM

To john.weingart@rutgers.edu

cc "Tom O'Neill"

Subject Re: No-Cost Extension Request

Thanks, John.

I'm passing this on to our legal staff, who will be preparing the documents.

Will let you know if I need additional information and/or clarification.

Regards-Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue , NW Suite 1100 Washington, DC 20005 tel:202-566-3123

"John Weingart" <john.weingart@rutgers.edu>



"John Weingart" <john.weingart@rutgers.edu>

04/21/2006 09:52 AM Please respond to

john.weingart@rutgers.edu

To klynndyson@eac.gov

cc "Tom O'Neill"

Subject No-Cost Extension Request

Karen - We are requesting a no-cost extension on the EAC contract to the Eagleton Institute of Politics at Rutgers University to have the contract's concluding date move from March 31, 2006 to June 30, 2006. As I indicated earlier, it would be very helpful if we could receive approval of this request no later than April 28th.

This extension is necessary to enable the following activities:

1. The EAC has informed us that it will assemble a panel of researchers the week of May 8th to review the Eagleton/Moritz draft background report on Voter Identification. The EAC wishes to supplement the review of this draft

already conducted by the Peer Review Group called for in the contract. The Eagleton/Moritz research team, as well as at least some of the Peer Review Group will participate in the conference call or meeting of the

022562

EAC's reviewers;

- 2. Eagleton/Moritz will revise the draft Voter Identification report based upon comments made by the two sets of reviewers, and distribute the revised report to the EAC and its Advisory Board in mid-May.
- 3. Eagleton/Moritz will present its draft reports on Provisional Voting and Voter Idenfitication to the EAC Advisory Board at its May 25th meeting in Washington, D.C.;
- 4. Eagleton/Moritz will revise both draft reports to take into account comments made by the EAC Advisory Board, and submit printed final reports to the EAC before June 23rd. Eagleton/Moritz will also prepare a PowerPoint presentation for both reports.
- 5. Eagleton/Moritz will present both reports at the EAC public meeting in Washington, D.C. on June 23rd, thus concluding its work under this contract.

Please let me know if you need any additional information.

Thanks,

John

-- John Weingart, Associate Director Eagleton Institute of Politics (732)932-9384, x.290 Karen Lynn-Dyson/EAC/GOV 06/28/2006 11:53 AM To Darrell D. Lee/CONTRACTOR/EAC/GOV

CC

bcc

Subject label this EAC Peer Review panel for Eagleton research study

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue, NW Suite 1100 Washington, DC 20005 tel:202-566-3123

---- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:51 AM -----



"Mike Alvarez" <rma@hss.caltech.edu> 04/05/2006 07:39 PM

To klynndyson@eac.gov

CC

Subject

Hi -- nice to meet you in person, finally!

And thanks for inviting me to your gathering, I enjoyed it and hope I was helpful. Of course, any time you want anything, you do know where to track me down.

As to the potential reviewers of the Eagleton Voter ID study, here are my suggestions, in order:
Jonathan Nagler, New York University
Jan Leighley, University of Arizona
Ben Highton, UC-Davis
Adam Berinsky, MIT
Bernard Grofman, UC-Irvine

All have worked with the CPS turnout/registration data, and are very familiar with this research literature.

If these don't work, or you want more recommendations, let me know.

R. Michael Alvarez (0)
626-395-4089
Professor of Political Science (F)
626-405-9841
Caltech/MIT Voting Technology Project
California Institute of Technology
Pasadena, CA 91125
rma@hss.caltech.edu

Contributor to Election Updates,
http://electionupdates.caltech.edu/blog.html



U.S. ELECTION ASSISTANCE COMMISSION 1225 New York Ave. NW – Suite 1100 Washington, DC 20005

To:

File

From:

Tamar Nedzar, Law Clerk

Date:

April 21, 2006

Re:

No-Cost Extension to contract number E4014127 with the Eagleton

Institute of Politics at Rutgers University

Background:

Contract E4014127 with the Eagleton Institute of Politics at Rutgers University ("contractor") was originally scheduled to be concluded on March 31, 2006. The contract's final products include a report on Voter Identification and a report on Provisional Voting. The contractor has vetted the reports with a Peer Review Group, pursuant to the terms of the contract.

Justification for No-Cost Extension:

The EAC wishes to supplement the contractor's Peer Review of the reports by adding another review process with some of the EAC's key stakeholders. The EAC proposes to assemble a panel of researchers during the week of May 8th to conduct the second review.

Following the second review, the contractor will revise its draft reports based on the comments it receives. The contractor will present its draft reports on Provisional Voting and Voter Identification to the EAC Advisory Board at its May 25th meeting in Washington, DC. The contractor will revise both draft reports, taking into account the EAC's Advisory Board's comments and submit the final reports to the EAC toward the end of June.

Recommendation:

The EAC recommends that contract E4014127 be modified at no cost to allow the contractor to complete their work by June 30, 2006.

Karen Lynn-Dyson/EAC/GOV 06/28/2006 11:52 AM To Darrell D. Lee/CONTRACTOR/EAC/GOV

cc

bcc

Subject Fw: Powerpoint presentation for EAC

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue , NW Suite 1100 Washington, DC 20005 tel:202-566-3123

---- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:50 AM ----





To klynndyson@eac.gov

CC

Subject Powerpoint presentation for EAC

Karen,

Attached is the Powerpoint presentation we will use as the basis for our presentation tomorrow. I will be bringing a copy on a portable drive to install on the computer to be used for the presentation, but thought it might be convenient to have a copy in advance that you could review and that might be loaded onto the presentation computer before we arrive.

See you about 11. Hope you're having (had?) a good weekend.

Tom O'Neill

Briefinfg040306A.ppt

Briefing for

U. S. Election Assistance Commission

Thomas O'Neill, Project Director Eagleton Institute of Politics

Dan Tokaji, Assistant Professor of Law Moritz College of Law,

Tim Vercellotti, Assistant Research Professor Eagleton Institute of Politics

April 3, 2006



Analytic Tasks

- Identify how voter ID requirements were implemented around the county to provide a baseline for consideration of other approaches
- Diagnose the problems and challenges of voter ID and hypothesize alternative approaches.
- Recommend alternative approaches
- Identify appropriate policy objectives by which to assess alternative approaches to voter ID

Focus

- HAVA's narrow ID requirements drew attention to the issue and helped spark the current debate.
- •National debate now goes beyond HAVA to focus on stricter ID for all would-be voters
- Therefore our work takes a broad view of the issue.

Voter ID and Ballot Integrity

- Voter ID a critical step in protecting the integrity of the ballot by checking that the potential voter is eligible and permitting the voter to cast a ballot and one ballot only.
- Ensuring ballot integrity requires a perspective that takes in the entire voting process.
- Requires more than preventing the ineligible from voting.
- Also should ensure that all those who are eligible and want to vote can cast a ballot that counts.

Vote Fraud Excluded From This Analysis

- Assessing the effectiveness of voter ID in preventing vote: fraud-should logically include an estimate of the nature and frequency of vote fraud.
- EAC commissioned a separate analysis of the incidence of vote fraud.
- Our analysis does not take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

Method of analysis

- Collected and analyzed state statutes and regulations
 Classified states by their ID requirements in 2004.
- Tested the assumption that voter ID requirements would prove to be increasingly demanding on the voter with providing photo ID the most rigorous.
- County-level turnout data and Current Population Survey results
- Analyzed litigation for trends in judicial decisions.
- Revised our work based on comments of PRG

Categories of Voter ID in the states, 2004

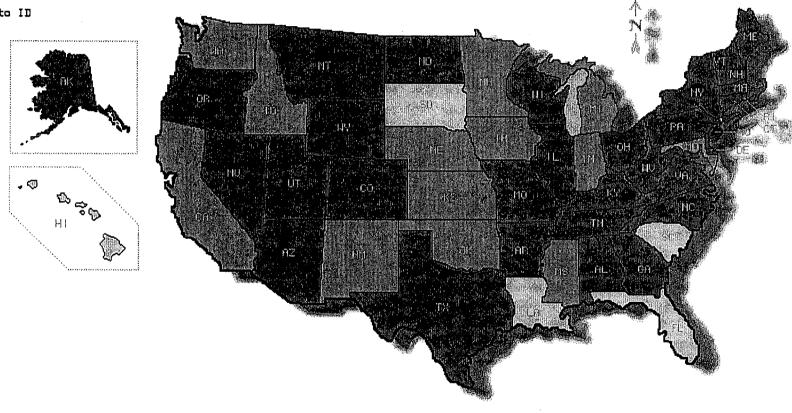
- 1. Give Name
- 2: Sign Name
- 3. Match Signature
- 4. Present ID
- 5. Photo ID

In 2004 no states required photo ID as the only ID to cast regular ballot.

May not reflect actual practice at the polling place.

- 📤 Give Name
- 🏶 Sign Name
- - Match Signature
- **6** ID
- 🦫 Photo II

Voter ID Requirements 2004



3-27-06

Limitations of the data

- 2004 data do not permit conclusions about the effect of stricter photo ID laws such as those recently passed in Georgia and Indiana.
- •The 5 states that required photo ID in 2004 allowed voters who signed an affidavit or provided another form of identification to cast a regular ballot.

Analysis of Turnout and Voter ID Requirements

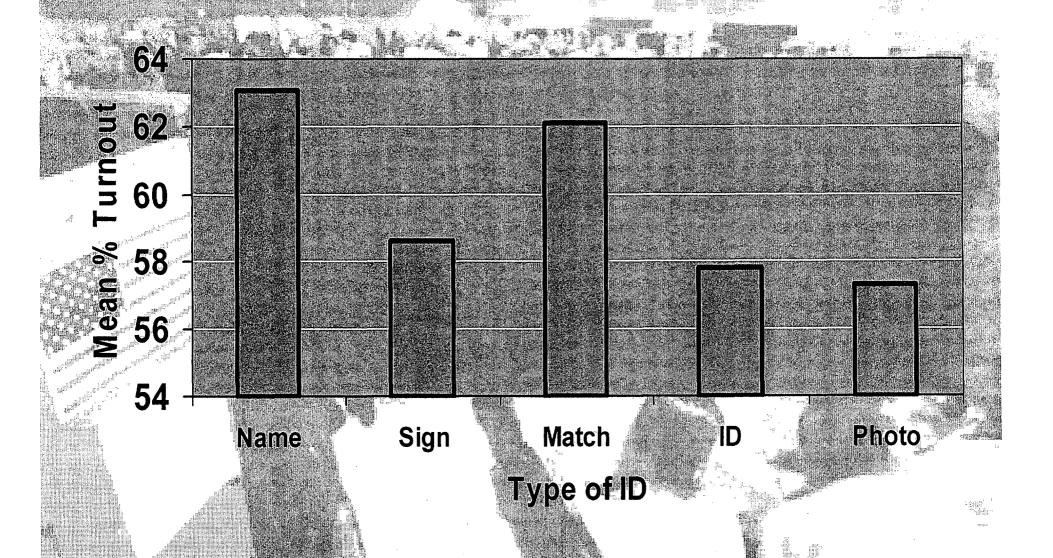
Tim Vercellotti

ID requirements affect turnout

Turnout declined with stricter voter ID requirements

- 63.1% of the voting age population turned out in states that required voters to state their names.
- 57.3% turned out in states that required photo ID.
- Including other factors beyond voter ID
 requirements diminishes the influence of voter
 ID on turnout.
- Reduction most noticeable in counties with many Hispanic residents or people below the poverty line.

State Voter ID and Turnout



Variation in Turnout Based on Voter ID Requirements					
Maxir Require		Minimum Requirement			
Voter Identification Required in the States	Mean Voter Turnout for States in that Category	Voter Identification Required in the States	Mean Voter Turnout for States in that Category		
State Name	63.1 %	State Name	6.1.3 %		
Sign Name Match Signature	58.6 %. 62.1 %	Sign Name Match Signature	59.2%		
Provide Non- Photo ID	57.8 %	Provide Non- Photo ID	57.6 %		
Provide Photo IDA Average Turnout (All States)	57.3 %	Swear Affidavit	58.7 %		

Reports from the voters

- CPS in November 2004 asked respondents about their experience voting.
- Stricter ID requirements exert a negative effect on whether survey respondents said they voted.
- Decline from Stating Name to Photo ID was 2.5%.
- Small, negative effect persists when controlling for other variables, such as battleground state and demographics

Effect of Stricter Voter ID requirements

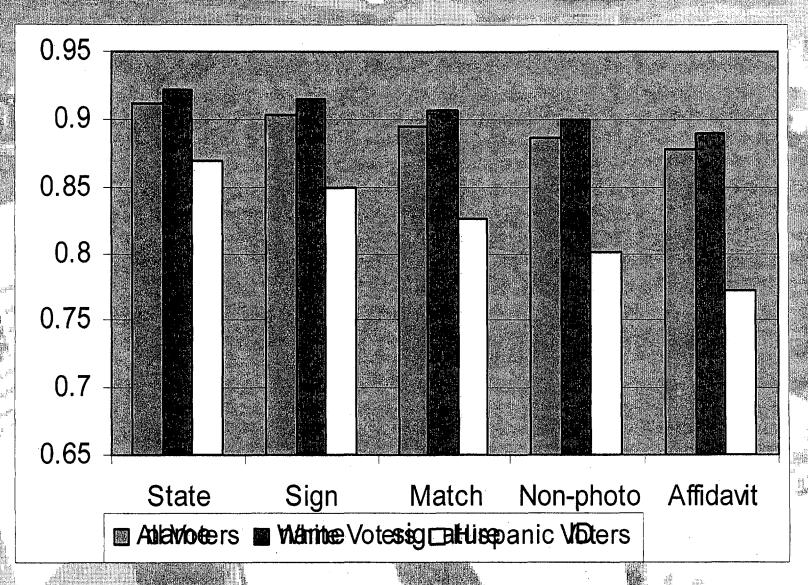
Significant reduction in probability of voting by:

- ·Hispanic Voters (minus 9.7%).
- Voters below the poverty line
- Voters with less than a high-school education (-7.4%)
- •Young voters (18 24)

No effect on the probability of voting by:

- African-American voters
- Voters with some college education.

Voter Turnout By Minimum ID Requirement



Trends in Litigation

Dan Tokaji

Summary

- Requirements that voters provide some identifying documentation have been upheld where photo ID is not the only acceptable form:
- •Laws requiring photo ID may not be upheld. In Common Cause v. Billups the court concluded that a photo-ID requirement is likely unconstitutional.
- *Cases challenging the mandatory disclosure of voters' Social Security numbers on privacy grounds have yielded mixed results.

Rulings on Forms of ID

Non-photo ID

- Colorado Common Cause v. Davidson, Upheld requirement that <u>all</u> in-person voters show identification.
- League of Women Voters v. Blackwell, rejected a challenge to Ohio requirement that first-time mail-registrants provide HAVA-ID.

Photo ID

- Georgia and Indiana laws requiring photo ID have been challenged in court. In Georgia, the District Court enjoined application of photo ID requirement on constitutional grounds. In January, Georgia enacted a modified version of the law, on which the court has not yet ruled.
- •ACLU of Minnesota v. Kiffmeyer, Enjoined Minnesota law that allowed the use of tribal photo ID cards only for an Indian who lived on the reservation. The decision indicates courts are likely to look strictly on photo ID requirements.

Privacy

- Greidinger v. Davis, (4th Cir. 1993), struck down on due process grounds a Virginia requirement that voters provide Social Security numbers to register.
 Public disclosure of the social security numbers was not necessary to prevent fraud.
- •BUT McKay v. Thompson, (6th Cir. 2000) rejected privacy challenges based to a Tennessee law requiring Social Security numbers for voter registration.
- •NVRA permits requiring only the minimum information needed to prevent duplicate voter registration and determine eligibility. The distinction between the two cases appears to be between the use of Social Security numbers for internal purposes, which was deemed permissible, and the disclosure of those numbers to the public, which took place in Virginia.

Conclusions

- •Courts will look strictly at requirements that voters produce a photo ID in order to cast a regular ballot.
- •Courts will balance the legitimate interest in preventing election fraud against:
 - Citizen's right to privacy
 - •Reasonableness of requirements for identity documents.
- •To forestall destabilizing challenges to election outcomes, voter ID requirements should be limited to the minimum needed to prevent duplicate registration and ensure eligibility.

Recommendations and Discussion

Tom O'Neill

Policy Perspective

If the ID requirements that block incligible voters from the polls also prevent eligible voters from casting a ballot because they lack ID, the integrity of the ballot may not have been improved.

Policy Perspective Questions

- Are voter ID requirements based on valid studies of the incidence of the vote fraud they aim to prevent?
- Is the increase in ballot security promised by stricter ID requirements reasonably proportional to the cost, measured in both monetary and other terms?
- •Can all citizens comply with the requirements easily?
- If a requirement is likely to reduce turnout of eligible voters, what steps can or will be taken to ameliorate the adverse consequences?
- Do the requirements have a neutral result on the composition of the qualified electorate?

Continuing uncertainty

- •Dynamics of Voter ID requirements, that is how they work in practice, are not well understood.
- •Policy process should recognize this uncertainty –less certainty, more humility
- Improve debate by additional research sponsored by the EAC.

Conclusions

More information is needed about:

- The kinds of vote fraud that could be prevented by more rigorous voter ID so that it is possible to evaluate tradeoffs between ballot access and ballot integrity.
- Why potential voters may be required to cast as provisional ballot?
- The ID-related reasons for rejecting provisional ballots during the 2006 and subsequent elections.
- The experience of voters in meeting ID requirements.

The EAC should:

- A. Recommend the publication of a "Voting Impact
 Statement" by states considering changing their voter
 ID-requirements: It would estimate the number and
 demographics of
 - 1. Eligible, potential voters that a proposed stricter ID requirement may keep away from the polls or be permitted to cast only a provisional ballot; and
 - 2. Assess the number of ineligible voters who will be prevented from voting by stricter ID requirements.

The EAC should:

- B. Encourage or require the states to:
 - 1. Collect and report reliable, credible information on the relationship between ballot access and ballot security.
 - 2. Survey provisional voters (anonymously) to determine why they were unable to cast a regular ballot.
 - 3. Conduct pre-election polling to ask voters what they know about the voter ID requirements.

- 4. Examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification.

 Consider 3 factors:
 - a. Convenience of voters
 - b. Total time allowed to evaluate ballots
 - c. Safe harbor provision in presidential elections.

::11				III WAS SECURED.	and the second second		
	Time pe	riod:	Number State		% PE	3 Coun	ted
	< 1 week		14			35.4%	
	1 – 2 week	6	15		4	17.1%	
	> 2 weeks		14		H. Tr. H.	60.8%	

C. Advise the states that to forestall destabilizing challenges to election outcomes, voter ID requirements should be limited to the minimum needed to prevent duplicate registration and ensure eligibility.

Briefing for

U. S. Election Assistance Commission

April 3, 2006

Karen Lynn-Dyson/EAC/GOV 06/28/2006 11:42 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV

CC

bcc

Subject Fw: Survey report

Karen Lynn-Dyson Research Manager U.S. Election Assistance Commission 1225 New York Avenue, NW Suite 1100 Washington, DC 20005 tel:202-566-3123

---- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:41 AM ----



"John Weingart" <john.weingart@rutgers.edu>

09/30/2005 03:02 PM

To "Karen Lynn-Dyson" <klynndyson@eac.gov>

. cc

Please respond to john.weingart@rutgers.edu

Subject Survey report



Provisonal Voting Survey Report.doc Karen - Thanks for the very helpful phone call. Attached is the Survey Report. Let me know if you have trouble opening it or need any clarification or further information. Thanks and have a good weekend.

John

-- John Weingart, Associate Director Eagleton Institute of Politics (732)932-9384, x.290

NATIONAL SURVEY OF LOCAL ELECTION OFFICIALS' EXPERIENCES WITH PROVISIONAL VOTING

Conducted by: Eagleton Institute of Politics

Conducted by:

THE STATE UNIVERSITY OF NEW JERSEY

RUTGERS

Eagleton Institute of Politics

Center for Public Interest Polling

Data Collection: July-August 2005

NATIONAL SURVEY OF

LOCAL ELECTIONS OFFICIALS' EXPERIENCES WITH PROVISIONAL VOTING

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EXECUTIVE SUMMARY: NATIONAL SURVEY OF LOCAL ELECTION OFFICIALS' EXPERIENCES WITH PROVISIONAL VOTING

To assess and improve the experiences of local elections officials with provisional voting, the Eagleton Center for Public Interest Polling (ECPIP) at the Eagleton Institute of Politics, Rutgers University conducted a national survey of local elections officials.

Telephone interviews were conducted between July 21 and August 4, 2005 with a random sample of 400 local election officials. The sample of local election officials were drawn from counties, or equivalent election jurisdictions such as boroughs, municipalities, parishes, towns or cities. The sample of local election officials was then stratified according to when the state had enacted provisional voting systems — before or after the passage of the Help America Vote Act of 2002 (HAVA) — as well as the population size of the voting jurisdiction. Those states that offered voters lost in the system the opportunity to cast a ballot pre-HAVA (2002) were considered "old provisional voting states"; and the states where voters not found on the registration list were not offered any recourse and thus, were not permitted to vote in the 2000 Election were labeled "new provisional voting states."

Further adjustments were made to take into consideration the population size of the voting jurisdiction. The "Old" and "New" states were separated into three categories – small, medium, and large – based on the population size of the voting jurisdiction. A voting jurisdiction with a population of 49,999 or less was considered small, 50,000 to 199,999

regarded as medium, and large consisted of 200,000 or more. This sampling frame yielded 400 cases (196 Old; 204 New)¹ consisting of six sample types: New Small (n=83), Old Small (n=71), New Medium (n=83), Old Medium (n=75), New Large (n=38), and Old Large (n=50).

The survey addressed the following topics: experience with the administration of provisional voting system, state guidance for implementing provisional voting, implementing provisional voting, general perceptions, and recommendations for the future. This Executive Summary provides an overview of key findings from the study.

Experiences with Provisional Voting System in Jurisdiction

Survey participants were asked a number of questions regarding their general experience with provisional voting.

- A majority of the "New" states' election officials (62%), and nearly twice as many as the "Old" (33%), indicated that "100 or less ballots" were cast in the election jurisdiction. A significantly larger percentage (14%) of the "Old" (28%) estimated that "between 100 to just under 500" provisional ballots were cast.
- Most (61%) of the "Old" states reported that "A lot" of these provisional ballots were counted compared to only 19 percent for the "New" states. A

At the studies conclusion it was determined that Rhode Island's affidavit voting system did not meet the criteria for placement in the Old State status and thus, the state was reassigned as "New." The reassignment of local election respondents representing Rhode Island resulted in a 49 (Old)/51 (New) split, rather than half of the sample being drawn from "Old" and half from "New." Unlike the other states (AL, KY, MI, MS, TX) with affidavit voting systems in place pre-HAVA, Rhode Island did not offer voters any real recourse to cast a ballot if the individual's name was not listed on the registration rolls. Instead, the state allowed voter's claiming eligibility, but not found on the registration rolls, to sign an affidavit enabling the election official to call the central registrar to verify the voter's eligibility. Only if the voter's name was found on the list was he or she permitted to cast a ballot.

- much larger percentage of the "New" subgroup felt that only "Some" (32%) or "Very Few" (32%) provisional ballots were actually counted.
- A sizeable majority of both subgroups (Old=64%, New=77%) attributed the
 most need for the use of provisional ballots in their jurisdiction to
 "individual's name not listed on the voter registration rolls."
- More than 7-in-10 in both subgroups agreed that "individuals who were not registered at the time of casting their provisional ballots" constituted the most important reason that these ballots were not validated and counted in their jurisdiction.

State Guidance for Implementing Provisional Voting

- A sizeable majority of both subgroups (Old=85%, New=83%) received provisional voting instruction from their state governments.
- Appreciable differences in the type of instruction received involved "whether the provisional ballot could be used as an application to update the voter's registration" (Old=74%; New 59%); "guidelines for determining which provisional ballots were to be counted" (Old=87%; New=94%); and "how to design the structure of the provisional ballot (Old=71%; New 57%)."
- Overall, 98 percent of both subgroups found the voting instructions they received from the state government useful.

Implementing Provisional Voting in Jurisdiction

When asked to describe the instructions or information provided to poll
workers to help determine voters correct precinct or polling place, both

subgroups employed various strategies including access to a list of eligible voters (Old=81%; New 80%), dedicated telephone line for poll workers (Old=93%; New=91%), and additional staff such as "greeters" (Old=46%; New=42%). Very few election officials in both (Old=11%, New=12%) reported the existence of a statewide voter registration database.

- A much larger percentage (70%) of "Old" states' election officials compared with 50 percent of the "New" used maps to help identify correct polling locations.
- 14 percent of all the election officials said that they did not provide written
 procedures or training to poll workers for the counting of provisional ballots.
 However, overall both subgroups felt that the administration of provisional
 voting in their jurisdiction was a success on all accounts.
- A variety of measures were employed to enable voters to determine if their
 provisional ballots were counted. In both subgroups the most widely used
 method was "the main telephone for the local or county election office" with
 66 percent of the New compared to 75% of the Old indicating this method
 was provided.
- The measure least cited for voters to determine if their provisional ballots
 were counted was "email notification." Only 10% reported that the election
 jurisdiction offered voters this opportunity.

General Perceptions

• Close to half (40%) of the election officials felt more training for poll workers was needed.

- 39 percent of the "New" states' election officials agreed that more
 information should have been provided to voters about the jurisdiction
 where provisional ballots must be cast in order to be counted compared to
 28% of the "Old".
- 13 percent more of the election officials from "New" states (39%) reported that more time was needed to implement provisional voting procedures.
- Only about half (56%) of the "New" states' election officials reported the
 provisional voting system was easy to implement while 73 percent from the
 "Old" found this to be the case.
- Seventeen percent more of the "Old" states' election officials (75%) agreed
 that the provisional voting system in their polling jurisdiction enabled more
 people to vote.

Recommendations for the Future

Survey participants were asked a number of questions regarding their general level of agreement with several statements regarding provisional voting.

- More election officials from "Old" states agreed that provisional voting sped up and improved polling place operations on Election Day (Old=53%; New=41%); and that the process helped election officials maintain more accurate registration databases (Old=63%; New=38%).
- 60 percent of the "New" states' election officials agreed that provisional voting created unnecessary problems for election officials and poll workers, compared with only 42% of the "Old."

- A majority of both subgroups agreed that "there is a need to offer voters the
 opportunity to cast provisional ballots." However, a 19 percent differential
 exists between the two subgroups (Old=81%; New=62%).
- A slightly larger percentage (9%) of the "Old" states' election officials (93%)
 felt that the provisional voting system in their polling jurisdiction was a success.
- Forty percent of the local election officials felt that the most effective way to
 increase the number of provisional ballots validated and counted in an
 election would be to administer provisional voting in a central location rather
 than at individual polling places.
- When asked what would be <u>most effective</u> in reducing the number of provisional ballots cast in an election, most (28%) of the local election officials chose providing a state sponsored website for individuals to check registration status online before going to the polling place. A slightly smaller number (26%) favored having a statewide voter registration database available at polling places.

CHAPTER 1

INTRODUCTION

A. Project Background and Objectives

To assess and improve the experiences of local election officials with provisional voting, the Eagleton Center for Public Interest Polling (ECPIP) at the Eagleton Institute of Politics, Rutgers University conducted a national survey of local elections officials.

The study was designed to examine the experiences, attitudes, and general impressions of local election officials with implementing provisional voting. Specifically, the study sought to ascertain the type of information, guidance, and training local election officials received from the State government in administering provisional voting, and how the information, guidance, and training was then distributed to poll workers and voters.

B. Summary of the Research Methodology

The survey involved telephone interviews conducted between July 21 and August 4, 2005 with a random sample of 400 local election officials. The sampling error for this total sample of 400 is ± 4.9 percent at a 95 percent confidence level. Of these local election officials, 196 were selected to represent "old provisional voting states" and 204 for "new provisional voting states." These subgroups have a sampling error of ± 6.9 percent for the "New" and ± 7.0 for the "Old" at a 95 percent confidence level.

Sampling error is the probability difference in results between interviewing everyone in a population versus interviewing a scientific sample taken from that population. Sampling error does not take into account any other possible sources of error inherent in any study of

² See footnote 1.

public opinion. A more comprehensive description of the research methodology is included in Appendix A.

C. Profile of Survey Participants

Table 1.1 provides a profile of survey participants by status including the entire sample of counties or equivalent and the subgroups within the "Old" or "New" status. The subgroup definitions of "Old" and "New" were provided by a report released by Election Line titled "The Provisional Voting Challenge" (December, 2001). The "New" states include: Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Missouri, Montana, Nevada, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, and Vermont; and the "Old" states include: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Washington D.C., Florida, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Texas, Virginia, Washington, and West Virginia.

D. Organization of the Report

The next chapter of this report examines the substantive survey results illustrated by statistical tables. The exact question wording precedes the table summarizing the percentages of the actual responses provided by the local election officials. In most cases the percentages on the tables read from top to bottom with the total equal to a 100 percent. In instances where there is statistical rounding, the total may be more or less than 100 percent.

The tables will also report the sample size "(n)" for each group referenced in the table. The "(n)" is the actual number of people in the group upon which the percentages are

based. Readers should be aware of the "(n)" when referencing the percentages on a table. Smaller subgroups will have a higher margin of sampling error. Therefore, in some cases what may appear to be a large difference between groups is a result of the larger sampling error and may not be statistically significant.

Following the statistical tables there are four appendices. Appendix A provides additional information about the survey methodology so that interested readers may have a better understanding of the process used to obtain the data. Appendix B consists of the prenotification letter explaining the purpose of the study and inviting local election officials to participate in the study if called. The text of the questions asked in the survey and used in the analysis of the data is contained in Appendix C. The verbatim responses (as recorded by the interviewers) to open-end questions included in the survey are found in Appendix D.

TABLE 1.1
PROFILE OF SURVEY PARTICIPANTS BY STATUS

	TOTAL	OLD PV STATES	NEW PV STATES
Gender	000/	2007	000/
Male	29%	30%	28%
Female	71	71	72
<u>Title</u>			
Administrator of Elections	10	5	14
Chairman of Elections	3	5	1
Clerk of Court	2	1	4
Commissioner of Elections	7	15	
County Clerk	17	16	18
Director of Elections	16	20	12
Registrar of Elections	8	8	. 8
Secretary of Elections	3	1	5
Supervisor of Elections	7	7	8
Town Clerk	4	2	6
Other	25	23	27
Office	23	23	
<u>Position</u>			
Hired	14	16	12
Appointed	42	41	44
Promoted	2	1	3
Elected	42	42	42
Other	1	1	1
Years Worked			
Less than one year	1	2	. 1
1-10 years	49	49	50
11-20 years	34	37	32
21-30 years	12	11	14
31-43 years	3	3	4
31-43 years	3	J	7
Region			
West	17	14	20
South	29	28	30
Midwest	46	48	44
Northeast	9	11	7
Committee Desire of			•
Statewide Registration	2.4	20	40
Yes	34	20	48
No	66	81	52
Battleground State			
Yes	17	19	14
No	84	81	86
210	0.1	~	00

TABLE 2.1 EXPERIENCE WITH PROVISIONAL VOTING SYSTEM IN JURISDICTION [Q.3-6]

3. What is your best estimate of the total number of provisional ballots cast in the 2004 election in your jurisdiction, whether they were ultimately counted or not? Your best estimate is fine.

	Old versus New		(n)
	Old	New	(n)
1 to less than 100	33%	62%	(191)
Between 100 to just under 500	28	14	(82)
Between 500 to just under 1000	12	5	(35)
1000 or more	19	9	(57)
(VOL) None/Zero	7	9	(31)
(VOL) Don't Know	1	1	(4)
(VOL) Refused			()
•	100	100	(400)

***statistically significant at the .000 level.

4. In your opinion, how many of these provisional ballots were counted – a lot, some, very few, or none at all?

	Old versus New		()
	Old	New	(n)
A lot	61%	19%	(146)
Some	17	32	(90)
Very few	18	32	(91)
None at all	4	17	(38)
(VOL) Don't Know	1	1	(4)
(VOL) Refused			
-	101	. 101	(369)

^{***}statistically significant at the .000 level.

5. In your opinion, which one of the following, if any, created the most need for the use of provisional ballots in your jurisdiction on Election Day, 2004?

	Old versus New		· (n)	
	Old	New	(n)	
Individual's name not listed on the	64%	77%	(260)	
voter registration rolls				
FIRST TIME voters couldn't provide	5	7	(21)	
the proper identification				
Voter's eligibility challenged	12	5	(30)	
Registered voters could not provide the	4	7	(19)	
proper identification				
(VOL) Other (SPECIFY)	14	4	(32)	
(VOL) Don't Know	2	2	(6)	
(VOL) Refused	1		(1)	
•	102	102	(369)	

^{***}statistically significant at the .01 level.

6. In your opinion, which one of the following, if any, was the most important reason that provisional ballots cast in your jurisdiction were not validated and ultimately not counted in the 2004 Election?

	Old versus New		(n)
	Old	New	(/
Individual failed to provide the identification required to validate the provisional ballot	2%	3%	(10)
Signature on the provisional ballot did not match the signature on the registration form	1		(1)
Provisional ballot cast in the incorrect voting precinct	16	10	(48)
Individual was not registered	75	76	(280)
(VOL) All provisional ballots were validated and counted in 2004 Election	2	4	(12)
(VOL) Other (SPECIFY)	3	4	(13)
(VOL) Don't Know	1	2	(5)
(VOL) Refused			()
	100	99	(369)

TABLE 2.2 PRE-ELECTION EXPERIENCE: STATE INSTRUCTION AND INFORMATION [Q.7-13]

7. Were provisional voting instructions provided by the state government for the 2004 Election?

	Old versus New		(-)
	Old	New	(n)
Yes	85%	83%	(335)
No	14	17	(63)
(VOL) Don't know	1		(2)
(VOL) Refused			()
,	100	100	(400)

8. Which of the following provisional voting instructions, if any, did you receive from the state government?

How to administer the provisional voting system	Old ver Old 90%	sus New New 91%	(n=335) (303)
Who is eligible to vote using a provisional ballot	93	92	(310)
How individuals vote using a provisional ballot	90	85	(292)
The jurisdiction where individuals can vote by provisional ballot	78	80	(265)
Whether the provisional ballot could be used as an application to update the voter's registration*** ***statistically significant at the .01 level.	74	59	(222)
How to train poll workers to process provisional ballots	89	88	(295)
How to provide voters with the opportunity to verify if their provisional ballot was counted	92	90	(304)
Guidelines for determining which provisional ballots are to be counted*** ***statistically significant at the .05 level.	87	94	(304)
Strategies to reduce the need for voters to use provisional ballots	54	54	(182)
How to design the structure of the provisional ballot*** ***statistically significant at the .05 level.	71	57	(213)
Other (VOL) All of the above (VOL)** None of the above (VOL) Don't Know (VOL) Refused (VOL)	 1	 2	() (22**) () (5) ()

^{**}included in totals above.

9. You said that you received provisional voting instructions from the state government. Please tell me how useful the instructions were on the jurisdiction where individuals can vote by provisional ballot -- very useful, somewhat useful, not very useful, or not useful at all?

[ASKED ONLY AMONG THOSE WHO SAID RECEIVED STATE INSTRUCTION ON THE JURISDICTION WHERE INDIVIDUALS CAN VOTE BY PROVISIONAL BALLOT IN Q8]

	Old versus New		(-)	
	Old	New	(n)	
Not useful	2%	3%	(6)	
Useful	96	95	(253)	
(VOL) Don't Know	2	2	(6)	
(VOL) Refused			()	
	100	100	265	

10. You said that you received provisional voting instructions from the state government. Please tell me how useful the instructions were on how to provide voters with the opportunity to verify if their provisional ballot was counted -- very useful, somewhat useful, not very useful, or not useful at all?

[ASKED ONLY AMONG THOSE WHO SAID RECEIVED STATE
INSTRUCTION ON HOW TO PROVIDE VOTERS WITH THE
OPPORTUNITY TO VERIFY IF THEIR PROVISIONAL BALLOT WAS
COUNTED IN Q8]

	Old versus New		(n)	
	Old	New	(n)	
Not useful	2%	1%	(4)	
Useful	97	96	(293)	
(VOL) Don't Know	1	3	(7)	
(VOL) Refused			()	
` .	100	100	(304)	